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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

W.A. No.78 of 2007
and
M.P.No.1 of 2007

Theatre Ram Balaji, Pennagaram
rep. By licensee A.R.Mani .. Appellant

-vs-

1. State of Tamil Nadu
rep. By Secretary to Government,
Home (Cinemas) Department,
Fort St.George, Chennai 9.

2. Joint Commissioner of
Land Administration (Cinema)
Chepauk, Chennai 5.

3. The District Collector
Dharmapuri District,
Dharmapuri. .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order made in W.P.No.4109 of 2001, dated 24.11.2006 to issue a writ of Certiorari calling for the records of the first respondent in G.O.(D) No.1197/Home (Cinema-2) dated 29.12.2000 and quash the same.

For Appellant : Mr. A.Jenasenan
For Respondents : Mr. Rajakalifullah,G.P.

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 24.11.2006 passed in W.P.No.4109 of 2001, in and by which the learned Judge after finding that there is no valid ground to interfere with the order of the Revisional Authority, dismissed the writ petition filed by the petitioner.

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2. On direction, learned Government Pleader takes notice for the respondents.

3. In view of the order to be passed hereunder, we are of the view that there is no need to traverse all the factual details as stated in the affidavit. It is seen that on 08.11.1999, the Tahsildar of Pennakaram inspected the appellant/petitioner theatre and noticed the following two irregularities.

1) Admitted one person more than the number of persons entered in the daily collections report.

2) Rs.5/- was collected as a flat rate as against the prescribed rates of admission.

After issuance of show cause notice, the licensing authority/Collector passed orders, suspending 'C' Form licence of the appellant for a period of one year, by proceedings dated 02.02.2000. Aggrieved by the said order, the appellant/petitioner filed an appeal before the Appellate Authority. The Appellate Authority by proceedings dated 23.06.2000 reduced the punishment of one year awarded by the licensing authority to six months. Against the order of the Appellate Authority, the appellant/petitioner preferred a revision before the Government. The Government by order dated 29.12.2000 reduced the punishment of six months to ten days. Not satisfied with the said order, the appellant/petitioner filed the writ petition.

4. The learned Judge after taking note of the violation and the orders of the appellate and revisional authority, rejected the claim of the appellant/petitioner for compounding under Section 8(A) of the Tamil Nadu Cinemas Regulation Act and ultimately dismissed his writ petition.

5. Learned counsel appearing for the appellant, by drawing our attention to both the irregularities and the explanation submitted by the appellant, contended that the appellant is entitled to the benefit provided under Section 8(A) of the said Act and the learned Judge ought to have accepted his claim. He also contended that in any event, considering the fact that the irregularities are trivial in nature and in fact he has collected flat rate which is lesser than the permissible amount, suspension of 'C' Form licence for a period of ten days is also excessive.

6. We heard the learned Government Pleader with regard to the above contentions.

7. It is true that the first irregularity relates to admission

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of one person more than the number of persons mentioned in the daily collection report and the second irregularity was that the appellant/petitioner collected Rs.5/- as flat rate as against the prescribed rates of admission. With regard to the first irregularity, the explanation of the appellant/petitioner was that while counting the number of persons inside the auditorium, the Inspecting Authority erroneously counted one of the staff members of the theatre, namely Mariappan, which was brought to the knowledge of the Inspecting Authority and also the licensing authority, however the same was not properly considered. In so far as the second irregularity is concerned, it is the claim of the appellant that though he is entitled to collect Rs.7/-, he has collected only Rs.5/- which is lesser than the prescribed rate. Taking note of the explanation offered relating to both the irregularities and in the absence of any information/details about the violation of similar nature in the earlier years, we are of the view that ends of justice would be met by reducing the period of suspension from ten days to two days. To this extent, the impugned orders as well as the order of the learned Judge are modified and the writ appeal is allowed in part. No costs. Consequently connected miscellaneous petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

To

1. The Secretary to Government,State of Tamil Nadu
Home (Cinemas) Department,Fort St.George, Chennai 9.

2. The Joint Commissioner of Land Administration (Cinema),Chepauk, Chennai 5.

3. The District Collector,Dharmapuri District,Dharmapuri.

+1cc to Mr.A.Jenasenan, Advocate SR 3247
+1cc to Govt. Pleader Sr 3397

HPR (CO)
km/25.1.

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